

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MAURICE JACKSON,

Plaintiff,

vs.

JAMIE WELBORN, et al.,

Defendants.

Case No. 12-cv-961-SMY-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Motion for Leave to Appeal *in Forma Pauperis* (Doc. 148). Plaintiff is appealing the verdict of his jury trial (Doc. 137). Plaintiff argues that his trial counsel was ineffective for not presenting certain evidence at trial and for failing to object to certain evidence presented at trial (Doc. 138). For the following reasons, the Court **DENIES** the motion.

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); Fed. R. App. P. 24(a)(3)(A). "[A] court need only find that reasonable person could suppose that the appeal has some merit." *Walker v. O'Brien*, 216 F.3d 626, 631-32 (7th Cir. 2000). In making such determinations, the Court is required to give a *pro se* plaintiff's allegations a liberal construction. *Arroyo v. U.S.*, 876 F. Supp. 1054, 1056 (E.D. Wis. February 15, 1995).

Here, the Court has no reason to doubt Plaintiff's indigency. The Court, however, finds Plaintiff's appeal to be frivolous. For his appeal to have merit, Plaintiff would have to show that his trial attorney "made errors so serious that [trial counsel] was not functioning as counsel" for Plaintiff and that Plaintiff was prejudiced by that deficiency. *Strickland v. Washington*, 466 U.S. 668, 687. The Court is satisfied that Plaintiff's trial attorney acted reasonably and strategically when determining what evidence to present and object to. *Id.* at 689. The Court is also satisfied

that no reasonable person could support Plaintiff's contentions that his trial counsel was ineffective.

For the foregoing reasons, Plaintiff's Motion for Leave to Appeal *in Forma Pauperis* (Doc. 148) is **DENIED**.

IT IS SO ORDERED.

DATED: January 28, 2016

s/ Staci M. Yandle
STACI M. YANDLE
DISTRICT JUDGE